



COUNCIL - 90th session

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SUMMARY RECORD OF THE THIRD MEETING

**held at IMO Headquarters, 4 Albert Embankment, London SE1 7SR
on Tuesday, 17 June 2003 at 9.30 a.m.**

Chairman: Mr. CHEN TZE PENN (Singapore)
Vice-Chairman: Mr. J. FRANSON (Sweden)
Secretary-General: Mr. W.A. O'NEIL

A list of participants is given in document C 90/INF.1.

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**AGENDA ITEM 9 - REPORT ON THE 2002 CONFERENCE OF CONTRACTING GOVERNMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974 (C 90/9; SOLAS/CONF.5/31, SOLAS/CONF.5/32 and SOLAS/CONF.5/34)
(continued)**

Mr. ROWE (United Kingdom) congratulated the Organization on the way it had responded to security concerns and endorsed Nigeria's comments at the previous meeting. The Conference was a good example of IMO reacting to an external problem, and he agreed with Sweden that work must now begin on implementing the Code.

Mr. AMEYAW-AKUMFI (Ghana) said that Ghana had put in place measures to implement the Code and had introduced an item on maritime safety on the agenda of the forthcoming African Union (AU) summit. He drew attention to a recent development whereby consultants had approached several African States offering expertise on maritime safety, and asked whether IMO could establish a common reference point to enable States to check the credentials of such consultants.

Mr. CHARALAMBOUS (Cyprus) asked for clarification on the question on Conference resolution 9 raised at the previous meeting. Despite the achievements of the previous year, results would not be forthcoming unless contracting Governments implemented the Code, and he highlighted the need for IMO to encourage technical co-operation activities. There was still work outstanding in the area of maritime security, which needed completion before the Organization could safely say that a security net was in place.

Mr. KORAN (United States) echoed the statements of previous speakers and expressed his appreciation of the commitment and work of IMO and its Member States, which had effectively addressed the post-9/11 threat to maritime security. That was another example of the Organization's successful initiatives to meet the demands of the maritime community, and to ensure that those initiatives were carried out within the correct organizational framework.

Mr. MSIKINYA (South Africa), commending the work accomplished by Member States in relation to maritime security, expressed concern about the financial implications for developing countries of establishing the necessary security infrastructure. South Africa, being part of the Southern African Development Community (SADC), whose Member States were not all Council Members, had to ensure that it served the interests of its sister States. Maritime security had already been discussed at SADC's regional maritime subcommittee, and Member States were encouraged to move towards implementation of the necessary measures.

South Africa had already taken steps towards complying with Conference resolution 6 by establishing a maritime security advisory committee, made up of key government departments, to co-ordinate implementation of the ISPS Code and the changes to SOLAS. It had already identified port facilities that would have to comply with the Code, and had submitted a request to the director of the TC programme for a national workshop between now and 1 July 2004. South Africa urged all Member States to work together to ensure that IMO's commitment became a reality, as it was only through a multilateral instrument that threats to maritime security could be tackled.

Mr. ASUQUE (Philippines), supported by Mr. EL-WALI (Lebanon) and Mr. EL DIN NASRAH (Egypt), said that attention should now be focused on the 1 July 2004 deadline for implementing the ISPS Code and SOLAS chapter 11. Member States needed to increase their human resources capacity in order to be able to create a security regime for ports and ships, and

should seek the support of the TC programme in providing training for ship security and port security officers. The Philippines would be seeking ways of implementing Conference resolution 5 on the promotion of technical co-operation and assistance, and agreed on the need to focus on regional workshops. In co-ordination with the TC Programme, it would shortly be organizing a workshop on maritime security, which would allow it to train experts qualified to put in place the maritime regime envisaged by the ISPS Code and SOLAS chapter 11.2.

Mr. VASSALLO (Malta) said that Malta had been one of the first Member States to emphasize the need for speed in boosting security measures for shipping following the 11 September 2001 incident, and it was pleased to note that swift and effective action had been taken. However, once the 1 July 2004 implementation date had arrived, simply sending inspectors to board ships, detain, shame and blacklist them would not help the situation and might lead only to short-lived success. Malta made a plea to IMO, therefore, to provide firm guidance up to and beyond 1 July 2004 to ensure that measures were being implemented in an appropriate manner.

Mr. KAGIMBI (Kenya) supported Ghana's comments. As security matters pertaining to ships and port facilities was a relatively new phenomenon and only a few countries had the necessary know-how, Kenya would appreciate guidance and expertise from IMO in that field.

Ms GARCÍA (Panama) said Panama had created a maritime security department within its maritime authority to implement the new Code. It was co-ordinating with public bodies and the private sector to ensure that port facilities complied with the new regulations, and had appointed recognized security organizations to implement ship security plans. The ISPS Code had again demonstrated IMO's capacity to meet the needs of the international community and to involve all concerned in the implementation of a new regime.

Mr. HANSEN (Denmark) joined in commending IMO's timely response to the tragic events of 11 September 2001. The Conference had struck a good balance between the need to take steps to prevent acts of terrorism and the need for shipping to continue as an effective mode of transport, and he hoped that an equally good balance would be struck during the implementation process.

Mr. JÓHANNESSON (observer, Iceland) said that security was one of the greatest challenges facing the maritime industry. He commended the Secretary-General for his determination in concluding the amendments to SOLAS and developing the ISPS Code, demonstrating that IMO could respond swiftly to new challenges. The onus was now on Contracting Governments and on the industry as a whole to implement them.

In order to be ready by 1 July 2004, countries had to begin preparations early, and it was equally important for IMO and its Member States, through the TC programme, to comply with the recommendations in Conference resolution 5 to assist developing countries.

Iceland noted with appreciation the actions already taken by the Secretary-General and was itself determined to meet the 1 July 2004 deadline. Apart from developing the necessary legislative and administrative arrangements, it had set up a steering group consisting of government officials and stakeholders in shipping, and was currently working on practical issues relating to the implementation of SOLAS and the ISPS Code.

Mr. AHMED (Bangladesh), speaking as Chairman of the Technical Co-operation Committee, said that many Member States had highlighted the need for technical co-operation in the context of Conference resolution 5. The TCC had begun to address maritime security as soon

as IMO had placed it as a priority item on its agenda. The TC programme would be critical between now and July 2004 because time was short, and he suggested that the best option would be for Member States to carry out groundwork to assess their own needs, and then contact the IMO Secretariat for the necessary technical co-operation and assistance.

Mr. FRANSON (Sweden), speaking as President of the Conference, responding to the question raised by Lebanon at the previous meeting, said that resolution 9 related to enhancement of security in co-operation with the WCO, particularly in respect of closed cargo transport units (CTUs), and invited WCO to consider urgent measures to enhance security in international movements of those units. The Secretary-General had been asked to provide WCO with the necessary expertise in maritime transport, and the Secretariat had therefore assisted WCO in many of their meetings and initiatives, including a task force which was to report to the WCO Council in June 2003. The Conference had also agreed that, subject to the consent of Contracting Governments, the SOLAS Convention would be amended in due course to incorporate any experience gained by further work carried out by WCO. The IMO Secretariat, Lebanon and the WCO observer had arranged to meet and would discuss any questions that Lebanon had on the matter.

Mr. EDWARDS (Director, Technical Co-operation Division) drew attention to document C 90/12/1, relating to technical assistance on maritime security. In response to the question raised by Ghana, he said that requests for technical assistance involved the recruitment of consultants and experts, who would be screened by a panel of representatives from IMO's Maritime Safety Division, Marine Environment Division, Legal Affairs and External Relations Division and Administrative Division before a decision to make a recommendation to the Secretary-General was taken. IMO sometimes found it difficult to find appropriate experts and consultants, as it was often not possible to assess a person's ability until after they had completed a job, but they were all carefully screened and their performance assessed in co-operation with the recipient Government.

IMO did not have the capacity to attempt to screen all consultants approaching Member States, especially developing countries, nor to establish some sort of global "white list", which might in fact be legally questionable or inappropriate for a United Nations organization. It was, however, happy to provide assistance to individual governments, and would make every effort to ensure that its consultants were of the highest quality.

The SECRETARY-GENERAL, thanking representatives for their comments, referred to MSC.Circ.1067 of 28 February 2003, which covered some of the points raised with respect to follow-up action and technical co-operation.

As soon as shipping had been identified as a potential target for terrorist activities, the Secretariat had pinpointed areas of concern and had advised the Assembly accordingly in November 2001. MSC had immediately put in place a working group, which had led to the call for a conference to amend the SOLAS Convention and to develop the ISPS Code. During that period, IMO had recognized that there was need for the developing world to have a better understanding of the situation and had therefore organized seminars in different parts of the world under the TC programme to help countries understand that the threat was not confined to any one country and that combined action would be needed.

The success of the Conference in achieving its objective of establishing implementation dates for the amendments to the SOLAS Convention and the introduction of the ISPS Code had shown IMO at its best. Everyone had known from the outset that the 1 July 2004 deadline would

be difficult to achieve, but IMO was read to offer assistance. The whole initiative was a classic example of how IMO could and did respond to an emergency situation.

The CHAIRMAN invited the Council to note the successful conclusion of the Conference, particularly the adoption of amendments to the 1974 SOLAS Convention, the associated International Ship and Port Facility Security (ISPS) Code and the pertinent Conference resolutions all aimed at enhancing maritime security; to express appreciation to the President and Officers of the Conference for their excellent work; and to authorize the Secretary-General to undertake the actions requested of him by the Conference, as set out in the Final Act.

It was so decided.

AGENDA ITEM 10 - REPORT ON THE 2003 INTERNATIONAL CONFERENCE ON THE ESTABLISHMENT OF A SUPPLEMENTARY FUND TO THE 1992 FUND CONVENTION (C 90/10 and C 90/10/Add.1; LEG/CONF. 14/20, LEG/CONF. 14/21 and LEG/CONF. 14/22)

The SECRETARY-GENERAL, introducing the item, said that document C 90/10 informed the Council that the report on the outcome of the 2003 International Conference on the Establishment of a Supplementary Fund to the 1992 Fund Convention would be submitted after the conclusion of the Conference. Document C 90/10/Add.1 summarized the outcome of the Conference, which had been convened by decision of the Assembly upon the recommendation of the Council and had been held at IMO Headquarters from 12 to 16 May 2003.

The Conference had adopted the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, the main objective of which was to ensure that victims of oil pollution damage were compensated in full for loss or damage they had suffered by substantially increasing the amount of compensation available under the international scheme. It should also alleviate the difficulties in pro-rating claims hitherto faced by victims in cases where there was a risk that the amount of compensation available under the 1992 Civil Liability and Fund Conventions would be insufficient to pay established claims in full. The supplementary compensation regulated by the Protocol would be paid by the International Oil Pollution Compensation Supplementary Fund, 2003. The Protocol would be open for signature at IMO Headquarters from 31 July 2003 until 30 July 2004, thereafter remaining open for accession. It would enter into force three months after the date on which eight States had expressed their consent to be bound by it, and the Secretary-General had received information that persons liable to contribute to the Supplementary Fund had received at least 450 million tons of contributing oil during the preceding calendar year.

The Conference had adopted three resolutions, the first on Financing of the International Conference to adopt a protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, directed to the Contracting States of the Protocol; the second on Establishment of the International Oil Pollution Compensation Supplementary Fund, requesting that certain actions be taken by the 1992 Fund Assembly, as well as the Director of the 1992 Fund; and the third on Review of the international compensation regime for oil pollution damage for possible improvement. Apart from requesting the 1992 Fund Assembly to continue with its consideration of enhancements to the 1992 Civil Liability and Fund Conventions, it requested IMO to consider the outcome of the deliberations within the 1992 Fund Assembly and to take appropriate action as necessary.

Under the Final Act and the Protocol, he was required to perform certain functions, including the preparation of the authentic texts in Arabic, Chinese, English, French, Russian and Spanish of the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992. He was also requested to transmit certified copies of the Final Act and the text of the Protocol to the Governments of the States invited to be represented at the Conference. Document C 90/10/Add.1 invited the Council to authorize the performance of those functions.

He expressed appreciation to all the elected officers, who had contributed enormously to the success of the Conference.

Mr. CHARALAMBOUS (Cyprus) joined in congratulating the Officers of the Conference, in particular the Chairman of the Committee of the Whole, Mr. Alfred Popp, who had negotiated a compromise solution and made sure that the Conference reached a successful conclusion.

Mr. GASC (France), welcoming the results of the Diplomatic Conference, said that after the **Erika** incident in December 1999, various proposals with a view to achieving solutions on maritime safety and on liability and compensation had been made at European Community level as well as at IMO and IOPC. He pointed out that IOPC could only compensate victims of the **Erika** incident for one third of the damages incurred, and that under the present system victims of the **Prestige** incident might only recover one fifth of the damages, which still had to be accurately assessed. Those figures illustrated the need for a review of the compensation scheme and the adoption of a new instrument. Unfortunately, however, the new instrument would not apply to the **Erika** or **Prestige** incidents.

France would join other Member States in making every effort to improve the safety of vessels and protect the marine environment, and to find solutions regarding liability within IOPC.

Mr. HANSEN (Denmark) said that pollution of the shores of coastal States had brought the less positive side of shipping closer to home. He welcomed the outcome of the Diplomatic Conference, which had shown that IMO was able to give a timely response to a difficult problem.

Mr. AGUILAR-SALAZAR (Mexico) said that adequate protection of victims by appropriate levels of compensation was important, although not all States Parties to the Fund had the same economic capacity to contribute. Mexico had always made prompt contributions to the Fund in a spirit of solidarity with countries affected.

The adoption of a new Fund presented considerable difficulties, not only with respect to levels of compensation, but also with regard to the need to align its provisions with those of IMO's basic Conventions. Unfortunately, countries affected would not be properly compensated, and increased international co-operation would be needed in order to achieve an adequate level of resources.

Mr. BARKINDO (Nigeria) said he was concerned that all Member States should be enabled to make claims in case of damage in an appropriate manner, irrespective of experience or geographical location. He suggested that the Secretariat should develop guidelines for making claims under the Supplementary Fund.

Mr. ASUQUE (Philippines), supported by Mr. FOKAS (Greece), joined in welcoming the outcome of the Conference, and supported the action recommended in paragraph 10 of document C 90/10/Add.1. The Protocol to the 1992 Fund provided an international solution to the problem

of compensation for damage and economic loss arising from oil pollution, a problem which was important for the Philippines and similarly situated countries.

He supported the voluntary third tier, although there were cost implications for contributing oil companies as well as for their customers in so doing. Whilst that arrangement enabled claimants to be compensated to a maximum of US \$750 million, some developing countries which were members of the Fund felt that they were sufficiently covered by the first and second tiers.

The CHAIRMAN invited the Council to take note of the information contained in document C 90/10/Add.1 and of the successful conclusion of the Conference; to express appreciation to the President and Officers of the Conference; to authorize the Secretary-General to perform the depositary functions and other functions required under the Final Act of the Conference under the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, as set forth in document LEG/CONF.14/21 and LEG/CONF.14/20, respectively; and to take note of the action requested of the Organization in each of the three Conference resolutions as set forth in document LEG/CONF.14/22.

It was so decided.

AGENDA ITEM 11 - PROGRESS REPORT TO THE ASSEMBLY IN COMPLIANCE WITH RESOLUTION A.920(22) ON REVIEW OF SAFETY MEASURES AND PROCEDURES FOR THE TREATMENT OF PERSONS RESCUED AT SEA (C 90/11 and Add.1; MSC 77/10/3; MSC 76/23; MSC 77/26; FAL 30/20; COMSAR 7/23)

The SECRETARY-GENERAL said that through operative paragraph 1 of resolution A.920 on Review of safety measures and procedures for the treatment of persons rescued at sea, the Assembly had requested the Maritime Safety Committee, the Legal Committee and the Facilitation Committee, under the direction of the Council, to review on a priority basis a number of specifically mentioned international conventions and any other IMO instruments under their scope for the purpose of identifying any existing gaps, inconsistencies, ambiguities, vagueness or other inadequacies and to take appropriate action so that: survivors of distress incidents would be provided with assistance regardless of nationality, status or the circumstances in which they were found; ships which had retrieved persons in distress at sea would be able to deliver the survivors to a place of safety; and survivors, regardless of nationality or status, including undocumented migrants, asylum seekers and refugees and stowaways, would be treated while on board in the manner prescribed in the relevant IMO instruments and in accordance with relevant international agreements and long-standing humanitarian maritime traditions.

Operative paragraph 5 of that resolution had requested him to submit a progress report to the November-December session of the Assembly. Document C 90/11/Add.1 contained the draft progress report. It also reported on the progress made at the United Nations inter-agency level following his initiative to ensure a co-ordinated and consistent approach to all related issues. However, the bulk of the report covered the considerable work undertaken by the Legal Committee, with respect to the possible need for a review of the Salvage Convention, the Facilitation Committee, with respect to the need for a review of the FAL Convention, and the Maritime Safety Committee, with respect to the need for a review of the SOLAS and

SAR Conventions. The issue had generated worldwide interest, and the United Nations General Assembly had addressed it in its resolution 57/141 on Oceans and the Law of the Sea, as stated in paragraph 67 of document C 90/11/Add.1.

The Maritime Safety Committee had addressed the issue at its seventy-fifth, seventy-sixth and seventy-seventh sessions as well as through the COMSAR Sub-Committee at its sixth and seventh sessions, and had been able to identify gaps in relation to the obligation of the master to come to the assistance of persons in distress at sea *vis-à-vis* the obligations of Contracting Governments to SOLAS and parties to the SAR Convention to permit and assist the master to disembark such persons to a place of safety within a reasonable period of time. The need to strike a balance between those obligations was recognized.

COMSAR 7 had been instructed to finalize appropriate draft amendments to both SOLAS chapter V and the SAR Convention, based on text developed by an informal SAR meeting in Sweden in September 2002. COMSAR 7 had prepared draft amendments to both Conventions which had been submitted to MSC 77 for approval on the understanding that additional guidelines on the harmonized interpretation of the new provisions should be developed by COMSAR 8. MSC 77 had considered the proposed draft amendments and approved them together with the associated MSC resolutions with a view to adoption by MSC 78. The MSC had also instructed COMSAR 8 to finalize the supplementary guidelines to assist SOLAS and SAR Contracting Governments and parties to understand the amendments and to provide masters with clear guidance as to the procedures to be followed when assisting persons in distress at sea. The aim was for both the amendments and the guidelines to be adopted at MSC 78.

The Facilitation Committee had reviewed the provisions of the FAL Convention together with resolution A.773(18) on Enhancement of safety of life at sea by the prevention and suppression of unsafe practices associated with alien smuggling by means of ships; resolution A.871(20) on Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases; and resolution A.867(20) on Combating unsafe practices associated with the trafficking or transport of migrants by sea at its twenty-ninth and thirtieth sessions, and had made progress on the issue of disembarking persons rescued at sea by considering the development of administrative procedures for disembarking as well as a checklist of information to be used for guidance purposes only. The FAL Committee would continue the review process at its thirty-first session.

The Legal Committee had reviewed the provisions of the Salvage Convention at its eighty-fifth session, in particular article 10 thereof referring to the obligation of the master to render assistance to persons in danger of being lost at sea, and had noted comments made by the CMI observer to the effect that the Convention, being primarily a private law convention, might not be the most appropriate instrument to consider in the context of persons rescued at sea. The Legal Committee had expressed its continued readiness to provide advice on any legal issue that might be brought to its attention by other IMO bodies and had decided to keep the matter under review.

The CHAIRMAN said that any additional input that might be contributed by the Legal Committee at its eighty-seventh session in October 2003 would be reported to the twenty-second extraordinary session of the Council before inclusion in the Secretary-General's report to the Assembly.

Mr. AMEYAW-AKUMFI (Ghana) said the issue was a complicated one, but the need to save life should be given high priority. He suggested that the Secretary-General should put every relevant committee to work on the matter, so that the next progress report would include a more definitive statement on the stand taken by IMO.

Mr. NYGAARD (Norway) emphasized the importance of finding a solution, since there might be differing interpretations of existing commitments, and clarification was needed. The international community could not accept that people who had been rescued at sea should not be allowed to disembark.

Mr. VASSALLO (Malta) said the issue could be viewed from two opposing positions, that of the flag State and that of the port State. Although ships had a duty to rescue people in peril at sea, there was need to ensure that masters and crew were given support as well as guarantees that persons they rescued would not become a threat to the safety or security of their ship. If a master knew that his ship would have no place to disembark rescued persons, he might be tempted to avoid the rescue.

He did not agree with certain interpretations whereby the State of the SAR co-ordinating area had a duty to receive rescued persons. Malta was a port State and co-ordinator of a large SAR region in the middle of the Mediterranean, which was notorious for incidents of people being set adrift at sea. Where persons had been rescued 300 miles away from Malta, he did not accept that they should all have to be disembarked there. Malta therefore had some reservations about IMO's ongoing work on the issue. It currently had 1,000 refugees out of a population of 350,000, which was probably the highest ratio in the world. He supported the views expressed by Ghana and Norway.

The CHAIRMAN congratulated the MSC and the Legal and FAL Committees on the significant progress made in the consideration of a complex, complicated and sensitive issue with humanitarian connotations. He also congratulated the Secretary-General on the progress made in his initiative to seek co-ordination in the response of United Nations specialized agencies and programmes through his inter-agency initiative. The three Committees concerned should continue to work on the subject, the Secretary-General should pursue his initiative further, and all should report progress to the Council in due course.

He suggested that the Secretary-General's progress report on the Review of safety measures and procedures for the treatment of persons rescued at sea be endorsed by the Council for submission to the twenty-third session of the Assembly for information and action as appropriate with the proviso that it might be expanded to incorporate any input decided by LEG 87.

It was so decided.

AGENDA ITEM 12 - PROGRESS REPORT TO THE ASSEMBLY IN COMPLIANCE WITH RESOLUTION A.924(22) ON REVIEW OF MEASURES AND PROCEDURES TO PREVENT ACTS OF TERRORISM WHICH THREATEN THE SECURITY OF PASSENGERS AND CREWS AND THE SAFETY OF SHIPS (C 90/12 and Add.1, C 90/12/1; MSC 77/6/2, MSC 76/23, MSC 77/26; FAL 30/20; LEG 86/15)

The CHAIRMAN said that the documents before the Council reported on the work carried out by the MSC and the Legal and FAL Committees as well as on action taken through the Integrated Technical Co-operation Programme to enhance maritime security worldwide. Any additional input that might be contributed to the Legal Committee at its eighty-seventh session would be reported to the twenty-second extraordinary session of the Council before being included in the Secretary-General's report to the Assembly.

The SECRETARY-GENERAL said that through operative paragraph 5 of resolution A.924(22), the Assembly had requested him to take appropriate measures within the ITCP to assist Governments to assess, put in place or enhance appropriate infrastructure and measures to strengthen port safety and security, so as to prevent and suppress terrorist acts directed against ports and port personnel as well as ships in port areas, passengers and crews. Pursuant to that request, the Assembly had agreed to a boost to the Organization's technical co-operation programme of £1.5 million to help developing countries to address maritime security issues.

During the first year of that programme the Technical Co-operation Division, in collaboration with the Maritime Safety Division, had delivered a significant work plan that had covered the preparation of a training package with associated lesson plans and presentations, aimed at raising awareness of its existing maritime security measures and practices and of the prospective regulatory regime being developed by IMO; seven subregional seminars/workshops organized over a period of five months involving the participation of 86 countries, two associate Member States and a total of 306 trainees; and *ad hoc* advisory services on maritime security to certain developing countries. Following the adoption of the new regulatory regime, the training package had been modified and additional technical assistance with the updated materials was being provided throughout 2003, including a further seven subregional seminars/workshops, two of which had been held in Nigeria in March 2003 and in India in April 2003 respectively. The feedback from participants in those events had been outstanding, and it was anticipated that individual countries, especially in developing regions, might request further IMO support in the form of advisory missions and national workshops and training their nationals at specialized institutions. So far, IMO had received requests from 20 countries for advisory and training services.

In operative paragraph 6 of resolution A.924(22), the Assembly had requested him to submit a report to its forthcoming session on progress made in the interim. Document C 90/12/Add.1 therefore contained a report elaborating on the work accomplished since the last Assembly by the Legal Committee, in its work to progress the review of the SUA Treaties; the Facilitation Committee, which had mainly concentrated on the review of the relevant standards and recommended practices of the FAL Convention; and, most significantly, by the Maritime Safety Committee and its subsidiary bodies, which had focused on the development of a new regulatory regime for the enhancement of maritime security under SOLAS chapter XI-2 and the ISPS Code, and on assisting the implementation of the adopted security measures.

The draft report was submitted to the Council for endorsement and submission to the Assembly. Any additional input resulting from meetings of IMO bodies scheduled between now and the Assembly would be submitted to the twenty-second extraordinary session of the Council for onward submission to the Assembly.

He added that the Secretariat had made presentations and keynote speeches at a considerable number of international conferences and other meetings since the 2002 SOLAS Conference, in an effort to promote awareness and assist in the implementation of the new regulatory system. In addition, it had participated in meetings of the United Nations Security Council Committee on Counter-Terrorism, ILO and WCO.

Mr. TOOMER (Australia) congratulated the Secretary-General and Secretariat on their work relating to technical assistance and technical assistance training. Australia had hosted a workshop for Pacific island countries the previous year, and those countries which had attended had expressed an interest in further training after the Diplomatic Conference in December 2002. He strongly supported IMO's plans for providing further assistance to developing countries in the Pacific region.

A three-day seminar, funded through NORSAID and aimed at assisting the Asia Pacific Economic Co-operative (APEC) economies, was shortly to be held at Monash University in Melbourne, and Australia was funding places for participants from six APEC countries in its area. It was also funding a tour by Australian transport security and customs officials to six APEC economies to advise on implementation aspects of the ISPS Code.

Mr. ESCHERICH (Germany) thanked the Secretary-General for his progress report and for successfully implementing resolution A.924(22) by assisting Governments to strengthen maritime and port security. His Government attached great importance to capacity-building in the field of maritime security, particularly in developing countries, and fully supported the proposal to establish an international maritime security trust fund within IMO as soon as possible. In 2002 Germany had supported an advisory mission to Indonesia as well as security training programmes in the World Maritime University in Malmö. It would provide an initial contribution of US \$25,000 to the new fund, and hoped that other countries would be encouraged to follow suit.

Mr. CHRYSOSTOMOU (Cyprus) said Cyprus strongly supported the creation of the trust fund and would continue to provide support to the Secretariat and to countries requiring assistance in implementation of the Code. He endorsed the report of the Secretary-General with one proviso that it should not prejudice discussions under paragraph 22.4 of document C 90/18 on the work programme and budget for 2004-2005.

Mr. OLIMBO (Italy) said the Secretary-General's report was evidence of the ability of the Organization to tackle the issue of maritime security in a dynamic and practical way. Italy endorsed the report for forwarding to the Assembly for consideration.

Mr. AGUILAR-SALAZAR (Mexico), commending the report, expressed appreciation for the swiftness with which the Secretariat had submitted to the Council information on the status of implementation of components of the global programme on maritime security.

The CHAIRMAN observed that the MSC, the Legal Committee and the FAL Committee deserved to be congratulated on the significant progress they had made in considering the complex and vital issue of maritime security. Those Committees, and the Organization as a

whole, should continue to assist in wide and effective implementation of the security measures adopted in December 2002, and in strengthening the regulatory regime established by the 2002 SOLAS Conference and other relevant IMO instruments. In so doing, they should keep the Council informed of developments.

He invited the Council to endorse the Secretary-General's progress report on the Review of measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships, and to agree to transmit the report to the Assembly at its twenty-third session for information or action, as appropriate, with the proviso that it might be expanded to incorporate any decisions reached by the Legal Committee at its eighty-seventh session.

It was so decided.

The SECRETARY-GENERAL thanked the representative of Germany for his announcement of a pledge of US \$25,000 for the International Maritime Security Trust Fund, which would enable the Fund to be established. He hoped that that first donation would encourage other Member States to contribute to the Fund.

**AGENDA ITEM 2 – REPORT OF THE SECRETARY-GENERAL ON CREDENTIALS
(continued) (C 90/2)**

The SECRETARY-GENERAL reported that all credentials had been examined and found to be in order.

The CHAIRMAN invited the Council to note the Secretary-General's report that the credentials of delegations attending the session were in order.

It was so decided.

AGENDA ITEM 13 - CHANGE MANAGEMENT PROGRAMME (C 90/13 and Add.1)

The SECRETARY-GENERAL said that document C 90/13 summarized the four areas of change management on which attention had been focused, namely the reform of the accounting, financial and budgetary systems; human resource management reforms; leadership and management development programmes; and redefining the delivery arrangements for technical co-operation project management. Progress was being made on all fronts: staff members were willing to embrace new systems and ideas and to adopt best practice in IMO's operating systems, while being wary of accepting change for change's sake alone.

The key element in the change process was the need for a new management accounting and information system. The Secretariat's two main assets were its staff and the knowledge base on which they drew, and the new system would provide managers with essential information in all areas of the Organization's work – on project management, on setting objectives and budgets and on monitoring performance. In that context, he drew the Council's attention to document C 90/13/Add.1, which contained the Secretariat's report of its evaluation of the offer of the Brazilian Government of a custom-built Enterprise Resource Planning (ERP) system, as compared with the commercial packaged ERP system presented to the Council at its eighty-ninth session. In accordance with the Council's request for a detailed analysis of both systems, taking into account the comments made by delegations at that session, he had provided a progress report in document C 90/13 and a detailed analysis in document C 90/13/Add.1. The case for the introduction of an integrated system was still relevant, and that analysis had not been repeated.

The assessment of the Brazilian offer had been based on a written proposal of the Brazilian Government and scripted demonstrations presented at IMO Headquarters over three days. The Secretariat had assessed both the Brazilian tailor-made system and the commercial ERP packaged system against the criteria of functionality and cost, or value for money. It had also judged the relative risks associated with each proposal, and the extent to which those risks could be offset and managed.

The evaluation process had been supported by extensive input from users of the system, particularly in relation to the scripted demonstrations, for which real-life scenarios using model data had been developed to enable the Brazilian team to show their systems in action.

The methodology employed by the Secretariat was set out in document C 90/13 and its addendum. Its analysis had concluded that the commercial packaged ERP system best met the Organization's needs and, in particular, would best drive the process changes required to support the Change Management Programme. An important consideration was that the resources required of the Secretariat to support the development of a bespoke system could not be provided without detracting from the essential business of the Organization. It was concluded that, while IMO's staff had the skills and experience to develop high-level requirements and support the configuration of a packaged system, they did not have the skills to perform detailed analyses of needs required to develop a bespoke system.

In addition, the analysis indicated that the Brazilian offer would be slightly more expensive for the Organization over the life of the system. Finally, it was concluded that the purchase of a packaged ERP-type system would allow the Organization to take advantage of additional functionality, as required. In particular, the human resource management tools would enable IMO to manage its staff base more effectively. With bespoke systems, such functionality would require separate development from scratch. It had therefore been concluded that, while the Brazilian offer had merit, when all factors were taken into account, a tested, packaged ERP-type system offered the best way forward for the Organization.

He had responded in document C 90/13/Add.1 to the concerns raised by the Council at its previous session. He recognized that the implementation of any system must be carefully planned to ensure its success and minimize any risks. However, he firmly believed that a commercial packaged system of the type proposed provided the Organization with the functionality it needed to work more effectively and efficiently and would enable it to best manage the risks involved. It was true that selecting such a system would require changes on the part of the Secretariat, but the enthusiasm of the users in the process to date had led him to conclude that the change management issues associated with introducing the system could be resolved. As he had already remarked, the change that a new system represented would be a fundamental building block of the Change Management Programme and was critical to its success.

Progress had been made in a data-cleansing exercise to prepare the Organization's data for a new system and for designing IMO's chart of accounts, which would drive its reporting capability in the future. A critical element of the Programme was to devolve control and accountability to staff, and managers could make informed decisions only if the information they received was timely, accurate and in a user-friendly format. Significant progress had also been made in devising an interim solution designed to make optimum use of the Organization's existing systems prior to the introduction of the replacement system. To date, the greatest progress had been made in the Publications Section and in the Sub-Division for Technology and TC Implementation.

The Secretariat had conducted its analysis of the offer by Brazil and the commercial packaged system in a manner consistent with that established as good practice by the Joint Inspection Unit and had made every effort to ensure that it was thorough, transparent and professional. It had involved the key users in the Organization in the assessment, and had reached a single view on the matter. Its existing systems were stretched, outdated and increasingly expensive to maintain, and it therefore hoped to begin the replacement process soon.

Finally, he thanked the Brazilian Government for its offer and expressed his appreciation to the Brazilian team for the significant effort it had put into supporting the analysis. Recognizing the difficulties inherent in assessing a bespoke system before it had been developed, the team had worked in close co-operation with the Secretariat to ensure that the analysis was as thorough and accurate and the evaluation was as informed as possible.

In conclusion, he said that the Council was requested to endorse the proposal to proceed with the acquisition and installation of the proposed commercial ERP system within the budgeted figure quoted. It would be financed from the accumulated reserves. While there were competing challenges for investment in 2003 and 2004, the planned ERP was a high priority item.

Mr. ALMEIDA (Brazil) thanked the Secretariat for the welcome accorded to the team of experts from the Brazilian Navy during the presentation of the scripted demonstrations, held from 22 to 25 April 2003 at IMO Headquarters. The aim of his Government's proposal had been to contribute towards the improved efficiency of the Organization. From the beginning of negotiations between the Brazilian Navy and IMO, Brazil had made it clear that it was not entering into a commercial bid or competing with enterprises specialized in the field of information technology or administrative restructuring, but that its aim was to establish a partnership with IMO in order to meet the latter's need, as indicated by the organizational review, for investment in information technology and management. The Brazilian proposal was an adaptation of the system currently in use in the Brazilian Navy, which had been successfully tested for many years.

He understood the difficulties faced by the group of users from the IMO staff in evaluating and comparing the offer, which would involve the development, implementation and maintenance of a system totally tailored to IMO's needs, and consequently based on a prototype, with a commercial offer presented previously which involved a ready-made operational system that only needed to be adjusted to meet the needs of a new client.

Building a new *ad hoc* system would certainly demand more time and resources for its development than an existing product. The implementation timescale of the system offered by Brazil was expected to be 62 weeks, while that of the proposed commercial system was just 36 weeks, which had led to an increase in the estimated cost of the Brazilian offer. In order to minimize the risk inherent in the implementation of a project of such magnitude, that offer also included follow-up and maintenance activities over a period of approximately eight years, which had also increased the estimated cost.

In view of the Secretariat's conclusion, for the reasons indicated in document C 90/13/Add.1, that a tested, packaged ERP-type system would best meet the Organization's immediate and longer-term management, accounting and information needs, Brazil, as a Council Member, would follow with interest the scheduled implementation of the selected system and would oversee the application of the resources authorized to be applied to it. He hoped that the Organization would soon reap the benefit of the system chosen.

Mr. RASMUSSEN (Denmark) said that the analysis contained in document C 90/13/Add.1 appeared to indicate that the commercial ERP package presented clear advantages and less risk. However, the projected implementation period of nine months indicated in paragraph 19 of annex 1 of that document was ambitious and its achievement would require efficient project management. Moreover, while it was sensible to build into the amount recommended a contingency of 10% of the one-off implementation cost, as indicated in paragraph 20 of annex 1, he was concerned that the main reason given for applying that contingency was that no amount had been included to take account of the cost of data cleansing and migration. That amount should be re-evaluated and quantified as far as possible because that aspect was often underestimated.

Experience had shown that even the best information technology system would not provide the envisaged benefits unless the existing work processes and procedures of the organization implementing such a system were critically examined, and he therefore recommended that IMO should undertake such an examination and change its work procedures if they were not appropriate to the new system.

In conclusion, referring to paragraph 10 of annex 2 of the document, in which it was stated that the critical factors for success were in place and that the Organization was as well placed as possible to take full advantage of such a major investment, both currently and in the future, he expressed the hope that that assertion would prove to be correct. His experience of such systems, however, had taught him to adopt a more cautious approach.

Mr. CHRYSOSTOMOU (Cyprus) thanked the Secretary-General and the representative of Brazil for their explanations. He endorsed most of the views expressed by Denmark, particularly those concerning paragraph 10 of annex 2, and also endorsed the selection of the commercial ERP package and the estimated cost of acquiring it, as well as the contingency of 10% of the one-off implementation costs and the setting aside of £250,000 from reserves for the year 2005.

However, he was not able to support the proposal that the monies should be allocated from the Headquarters Capital Fund. Although the Fund's reserve at the end of 2002 had stood at £2,421,000 and was estimated to reach £3,992,000 by the end of 2003 and £3,042,000 by the end of 2004, the surplus at the end of 2005 was estimated to be as little as £159,000. Moreover, the cost of refurbishing the Headquarters building might so deplete the Fund that no capital funds would be available by the end of 2005. He therefore suggested that discussions concerning the approval of the source of funding for the supply and installation of the commercial ERP package should be deferred to agenda item 18, which dealt with the work programme and budget, when more would be learned of the host Government's plans for refurbishing the building.

Mr. AMEYAW-AKUMFI (Ghana) commended Brazil's well-intentioned attempt to assist IMO in reviewing its mode of operation, and the careful analysis of the two systems carried out by the Secretariat. He endorsed the views expressed by Cyprus and Denmark, and urged that the risks involved in implementing the new system should be identified and evaluated, bearing in mind the cost of implementation.

Mr. ROWE (United Kingdom) said that it was his delegation's intention to submit a progress report on the building options study under agenda item 18, when the issue raised by Cyprus could be discussed.

Mr. KORAN (United States), supported by Mr. VASSALLO (Malta) and Mr. ALLARD (Panama), endorsed the suggestion by Cyprus that the source of funding of the system should be discussed in the context of the work programme and budget. He commended the Secretariat's efforts to analyse the various options, including the generous offer by Brazil, and supported the Secretary-General's proposal to acquire the commercial ERP system.

Mr. EUN LEE (Republic of Korea) commended the commitment shown by the Secretary-General and his staff to enhancing the quality and efficiency of IMO's work, and expressed appreciation to the Brazilian Government for its attempts to meet the Organization's needs.

He endorsed the Secretariat's conclusions, and agreed to the allocation of funds for the supply and installation of the commercial ERP package during 2004 from the Headquarters Capital Fund to enable the prompt implementation of the Change Management Programme.

The CHAIRMAN invited the Council to take note of and welcome the Secretary-General's very positive progress report on the progress of the Change Management Programme; to agree to the investment in an ERP system on the basis of the costs summarized in paragraph 10 of document C 90/13/Add.1; to agree that the ERP system investment should be funded from accumulated reserves; and to express its appreciation to the Government of Brazil for its generous offer.

It was so decided.

AGENDA ITEM 14 - CONSIDERATION OF THE STRATEGY AND POLICY OF THE ORGANIZATION, INCLUDING THE REPORT OF THE WORKING GROUP (C 90/14 and Add.1, C 90/14/1)

The CHAIRMAN recalled that at its eighty-eighth session, the Council had decided to establish an *Ad Hoc* Council Working Group to draft a strategic plan for the Organization. At its eighty-ninth session, the Council had had before it a report from that Working Group, which had been chaired by the Vice-Chairman of the Council, Mr. Franson (Sweden).

Document C 90/14 reported on the action taken by the Council at its eighty-ninth session with respect to the development of the Strategic Plan and its decision that the Working Group should further develop the framework of the Plan at a five-day meeting, to be convened between the eighty-ninth and ninetieth sessions of the Council.

Mr. FRANSON (Sweden), speaking as Chairman of the *Ad Hoc* Council Working Group on the Organization's Strategic Plan, said that the Group had held its second session from 31 March to 3 April 2003. Its report was at annex to document C 90/14/Add.1.

In considering the Mission Statement for the Organization, the Group had discussed a draft based on the original draft text; the revised draft was contained in annex 2 to the report. The Group had considered including references to capacity-building and a proactive approach and expanding the expression "technical matters of all kinds" to include operational, management and training issues, but it had agreed to omit additional text in the interests of brevity. It had also considered the intended meaning of the term "sustainable" in the phrase "sustainable development" but could not agree whether the term also addressed efficiency. The Group had therefore agreed to retain the word "efficient" in square brackets and to invite the Council to decide on its inclusion or omission.

The Group had agreed that in seeking to develop strategic directions, it was first necessary to clearly identify trends and developments in the shipping industry and related challenges facing the Organization, to be grouped under eight broad headings. The outcome of the Group's discussions was contained in annex 3 to the report.

The Group had agreed that the strategic directions flowed from the Mission Statement, and that they should be based on the future challenges faced by the Organization. It had also agreed that the identification and refinement of those directions, and of the trends, developments and related challenges, should be an iterative process. The Group had developed strategic directions under three broad categories, and in discussing the third – shipping profile, quality culture and environmental consciousness – had considered ways of raising the profile of shipping in the eyes of civil society. The outcome of the Group's discussions was contained in annex 4 to the report.

In considering objectives, goals and performance indicators, the Group had discussed the number of "layers" necessary in the Strategic Plan. While it had agreed that the Mission Statement was the highest layer, followed by the strategic directions, it had been unable to agree on subsequent layers, and two different philosophical approaches to the task of identifying objectives, goals and performance indicators had become apparent. A number of delegations had found it difficult to distinguish between objectives, tasks and work programme items, which had led them to conclude that there was a risk that the Council would micro-manage the work of the Committees. A number of delegations had drawn attention to the need for the Strategic Plan to be concise, but had warned of the danger of over-simplifying and omitting key objectives. Others had considered that it was the Council's role to set objectives in measurable terms.

The Chairman of the Group had proposed that the Council should either task the Group with further work, or seek the views of the Committees. A suggested set of objectives was given at annex 6, suggested performance indicators were given at annex 7, and annex 8 contained the main sources of information currently available to the Secretariat that might be used when considering the collection and collation of data.

The Group had noted that whereas its terms of reference required the development of a five-year Strategic Plan, the work programme and budget were reviewed and agreed on a biennial basis. It had therefore recommended that the Plan be developed on a six-year (or possibly eight-year) basis, with reviews at each biennium to ensure that it was kept up to date.

The SECRETARY-GENERAL, commending the Group's efforts, said that the new Mission Statement was succinct and timely and summed up well the role of the Organization in the maritime world. Future trends and developments in international shipping would test IMO's work, and the challenges that the Group had identified encapsulated the tasks ahead. It was therefore important that the strategic directions should address those challenges directly, which he believed they did.

In order to be consistent with the Organization's biennial budgeting, and in view of the need to manage the use of resources effectively, the Strategic Plan should be developed on a six-year basis with reviews at every biennium to adjust priorities. He invited the Council to endorse the proposed strategic directions so that they could be submitted for approval to the Assembly at its twenty-third session, since they would guide the work of the Committees and the Secretariat in the forthcoming biennium and beyond.

He supported the view of some delegations that the intention of the Strategic Plan should not be to micro-manage the work of the Committees. While the strategic directions would enable IMO to direct and prioritize its work, they did not provide for any form of measurement to monitor progress. He appreciated the difficulty of completing a full Strategic Plan in time for approval by the Assembly at its twenty-third session, but if the Organization was to demonstrate its effectiveness, it was important to establish baselines against which performance could be measured, to identify suitable performance indicators and to determine assessment criteria.

The Council might therefore wish to consider convening another meeting of the *Ad Hoc* Working Group to develop further the Strategic Plan, the outcome of which would be submitted to the Committees for comment. The Council, at its ninety-second session in June 2004, would thus be able to consider the Committees' comments and, if necessary, convene another meeting to enable the Working Group to finalize its work, the outcome of which would again be submitted to the Council for approval at its ninety-third session in November 2004. All the elements of the Plan would then be in place during the second half of the 2004-2005 biennium, and the experience gained during that period could be used in reviewing and adjusting priorities for the 2006-2007 biennium.

Mr. STUITJE (Netherlands), introducing the proposal by Canada, Cyprus, Denmark, Singapore, the Netherlands, Sweden and the United Kingdom (document C 90/14/1), commended the success achieved thus far by the *Ad Hoc* Council Working Group.

The document proposed a way forward for further elaboration of the Plan, not only with regard to the timetable and procedure of further work, as indicated in paragraphs 4 and 5, but also to the subject-matter of that work, as given in paragraphs 6 and 7. The proposal was based on the original terms of reference, a revised version of which was contained in the annex to the document.

The meeting rose at 12.30 p.m.